

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

CASE NO. 1:17-cv-511

NOVANT HEALTH, INC.,

Plaintiff,

vs.

FEDERAL INSURANCE COMPANY, INC.
and TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA,

Defendants.

NOTICE OF REMOVAL

TO THE CLERK OF THE COURT:

Defendant Federal Insurance Company, Inc. hereby removes this action from the General Court of Justice, Superior Court Division, Forsyth County, North Carolina to the United States District Court for the Middle District of North Carolina pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Removal, Defendants state:

1. On or about April 25, 2017, Plaintiff Novant Health, Inc. commenced an action in the General Court of Justice, Superior Court Division of Forsyth County, North Carolina by filing a Complaint titled: *Novant Health, Inc. v. Federal Insurance Company, Inc. and Travelers Casualty and Surety Company of America*, Civil Action No. 17-CVS-2393 (“the State Court Action”).

2. The Complaint was served on Defendant Federal Insurance Company on May 10, 2017.

3. Federal Insurance Company accepted service of the Summons and Complaint on May 10, 2017.

4. True and correct copies of all process, pleadings, and orders served upon Federal Insurance Company are attached hereto as Exhibits A and B.

5. The time for filing this Notice of Removal under 28 U.S.C. § 1446 has not yet expired.

6. Removal of this action is based upon 28 U.S.C. § 1441 in that this is a civil action brought in a state court over which the district courts have original jurisdiction under 28 U.S.C. §1332.

7. There is complete diversity of citizenship between Plaintiff and Defendants in this action because:

(a) Plaintiff is a corporation incorporated under the laws of the State of North Carolina with its principal place of business in Winston Salem, North Carolina;

(b) Removing Defendant Federal Insurance Company is a corporation incorporated under the laws of the State of Indiana with its principal place of business located in Whitehouse Station, New Jersey.

(c) Defendant Travelers Casualty and Surety Company of America is a corporation incorporated under the laws of the State of Connecticut with its principal place of business located in Hartford, Connecticut.

8. Based upon the allegations in the Complaint, the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. Specifically, the Complaint alleges in paragraphs 22-31 and 70-73 that Federal paid only \$4 Million, when it should have paid its \$15 Million policy limit, and Travelers failed to pay an amount that, together with Federal's \$15 Million limit, would bring the insurers' total contribution to the Kruger Settlement to \$25 Million.

9. Venue is proper in the United States District Court for the Middle District of North Carolina pursuant to 28 U.S.C. § 1391(b), because a substantial part of the events or omissions giving rise to this action occurred in this district, and at least one of the parties conducts business in, and may be found in, this district.

10. Plaintiff's Complaint includes a jury trial demand.

11. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the General Court of Justice, Superior Court Division, Forsyth County, North Carolina and is being served on Plaintiff's counsel.

12. Travelers Casualty and Surety Company of America consents to this removal.

WHEREFORE, having fulfilled all statutory requirements, Defendant Federal Insurance Company removes the State Court Action, and request that this Court assume full jurisdiction over the matter as provided by law, and permit this action to proceed before it as a matter properly removed thereto.

Respectfully submitted,

COZEN O'CONNOR

By: s/ Tracy L. Eggleston

Tracy L. Eggleston, N.C. Bar #18471

Patrick M. Aul, N.C. Bar #39506

301 South College Street, Suite 2100

Charlotte, NC 28202

Tel. No.: (704) 348-3409

teggleston@cozen.com

PAul@cozen.com

*Attorneys for Defendant Federal Insurance
Company*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ***NOTICE OF REMOVAL*** in the above-captioned matter was served by U.S. Mail, postage pre-paid, this 6th day of June, 2017, addressed as follows:

L. D. Simmons, II
Joshua D. Davey
McGuire Woods LLP
201 N. Tryon St., Ste. 3000
Charlotte, NC 28202
Counsel for Plaintiff

Alexis J. Rogoski
Skarzynski Black LLC
One Battery Park Plaza, 32nd Floor
New York, NY 10004
arogoski@skarzynski.com

C. Grainger Pierce Jr.
Kathleen Burchette
Nexsen Pruet, LLC
227 W. Trade St., Ste. 1550
Charlotte, NC 28202
gpierce@nexsenpruet.com

Counsel for Defendant Travelers Casualty and Surety Company of America

s/ Tracy L. Eggleston
Tracy L. Eggleston